IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GABRIEL JOSE LEON OLIVARES, Petitioner,	§	
v.	§	No. 3:25-cv-3096-K-BW
THOMAS BERGAMI, et al., Respondents.	§	Referred to U.S. Magistrate Judge[1]

FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Petitioner Gabriel Jose Leon Olivares, a person in custody at the Prairieland Detention Center in Alvarado, Texas, a facility in this district, filed this habeas action under 28 U.S.C. § 2241 on November 12, 2025. (Dkt. No. 1 ("Pet.").) On November 25, 2025, he also filed a Motion for Temporary Restraining Order ("TRO") and Preliminary Injunction. (Dkt. No. 12 ("TRO Mot.").) Respondents filed a combined response in opposition to the Petition and TRO Motion on December 18, 2025 (Dkt. No. 15 ("Resp.")), with a supporting appendix (Dkt. No. 16). On December 28, 2025, Leon Olivares filed a reply. (Dkt. No. 15 ("Reply").)

For the reasons discussed below, the undersigned magistrate judge recommends that the Court grant in part Leon Olivares's application for a writ of habeas corpus under 28 U.S.C. § 2241 (Dkt. Nos. 1) and require Respondents to

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[1] This habeas action has been referred for case management to the undersigned magistrate judge by Special Order 3-251. (*See* Dkt. No. 4.)

provide him with a bond hearing before an immigration judge, and deny the TRO Motion (Dkt. No. 12).

I. BACKGROUND

Leon Olivares seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge his recent detention by Immigration and Customs Enforcement ("ICE"). (*See generally* Pet.) He alleges that he cannot be subject to mandatory immigration detention but rather must be given an individualized bond hearing in connection with his pending removal proceeding. Leon Olivares additionally seeks a temporary restraining order that likewise asserts he is entitled to an individualized bond determination.

Leon Olivares alleges the following facts in his amended petition. He is a citizen of Venezuela who entered the United States on June 25, 2021. (Pet. ¶ 45.) When he entered the country, he was processed by the Department of Homeland Security ("DHS"), which released him into the country on his own recognizance. (Pet. ¶ 46.) He has resided in the country since and most recently lived in Haslet, Texas. (Pet. ¶¶ 18, 46.)

Leon Olivares applied for asylum for himself and his immediate family on March 11, 2022. (Pet. ¶ 47.) He reported to the Dallas Field Office of ICE on October 30, 2025, at his appointed time and was arrested. (Pet. ¶ 47.) He has remained in ICE custody since. (Pet. ¶ 47.) He alleges that he has been placed in

removal proceedings but has no current hearing date assigned by the immigration court. (Pet. ¶ 47.) ICE has charged Leon Olivares with entering the country without inspection under 8 U.S.C. § 1182(a)(6)(A)(i). (Pet. ¶ 47.)

Leon Olivares avers that he has been gainfully employed while present in the country, owning an automotive repair shop. (Pet. ¶ 48.) He has never been arrested, and he supports his wife and two children who were born in the United States. (Pet. ¶ 48.)

Leon Olivares alleges that ICE has continued to hold him without providing him an opportunity to be released on bond or other conditions. (Pet. ¶ 49.) He has not requested a bond hearing but asserts that the Bureau of Immigration Appeals has recently stripped immigration judges of authority to grant a bond hearing him. (Pet. ¶ 49.)

Respondents acknowledge that Leon Olivares is a citizen of Venezuela and that he entered the United States in June 2021, although they allege his date of entry as June 27. (Resp. at 1.) They further allege that he was placed into removal proceedings on November 25, 2025 by issuance of a notice to appear charging him as removable. (*Id.* at 1-2.) They agree that Leon Olivares has not requested a bond hearing before an immigration judge. (*Id.* at 2.)

II. LEGAL STANDARDS AND ANALYSIS

A. Subject Matter Jurisdiction

Respondents assert that the Court lacks jurisdiction to review Leon Olivares's petition. (Resp. at 22.) They contend that the "core of this Petition—a question of statutory interpretation—is not properly before the Court and must be funneled through the court of appeals." (*Id.*) Because it concerns the Court's power to decide the case, "[j]urisdiction is always first." *Louisiana v. United States Dep't of Energy*, 90 F.4th 461, 466 (5th Cir. 2024) (quoting *Arulnanthy v. Garland*, 17 F.4th 586, 592 (5th Cir. 2021)); *see also United States v. Willis*, 76 F.4th 467, 479 (5th Cir. 2023) (citing *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 101 (1998)). "'Federal courts are courts of limited jurisdiction,' possessing 'only that power authorized by Constitution and statute.'" *Gunn v. Minton*, 568 U.S. 251, 256 (2013) (citation omitted).

Several provisions of the INA "curtail the jurisdiction of federal district courts in immigration cases." *Lopez-Arevelo v. Ripa*, ___ F. Supp. 3d ____, 2025 WL 2691828, at *3 (W.D. Tex. Sept. 22, 2025) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 292–96, (2018)). But "the Court retains jurisdiction to review a noncitizen's detention insofar as that detention presents constitutional issues, such as those raised in a habeas petition." *Id.* at *5 (cleaned up); *accord Barrientos v. Baltazar*, No. 5:24-CV-00005, 2024 WL 5455686, at *3 (S.D. Tex. Dec. 18, 2024) ("Noncitizens may

challenge their immigration detention under § 2241, although Congress has limited this Section's reach." (citing *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001); *Nielsen v. Preap*, 586 U.S. 392, 419-20 (2019))), *adopted*, 2025 WL 744703 (S.D. Tex. Mar. 7, 2025).

Leon Olivares challenges the validity of the agency's new policies relating to mandatory detention and a detainee's entitlement to a bond hearing (*see* Am. Pet. ¶¶ 30-34, 52-53), but he also challenges his ongoing detention on constitutional due process grounds (*see id.* ¶¶ 54-57). Thus, the Court has jurisdiction to assess whether these policies have been applied to Leon Olivares in an unconstitutional manner. *See Lopez-Arevelo*, 2025 WL 2691828, at *7 (citing *Perez v. Kramer*, No. 25-cv-3179, 2025 WL 2624387, at *3 (D. Neb. Sept. 11, 2025) (declining to consider "the validity of the government's argument that [the p]etitioner should be mandatorily detained under § 1225" or the applicability of *Yajure Hurtado* and considering, instead, the due process question)).

B. Exhaustion of Administrative Remedies

Respondents argue that Leon Olivares's petition should be denied because he has not exhausted administrative remedies. (Resp. at 7.) They acknowledge that exhaustion is not required by statute but urge the Court not to intervene in the pending administrative proceedings because "Petitioner can still request a custody

redetermination with the Immigration Court, and if unsatisfied with that determination, appeal to the [Bureau of Immigration Appeals]." (Resp. 8.)

Respondents are correct to acknowledge that the statute does not require exhaustion in this circumstance. Courts have observed that the INA does not require exhaustion for situations other than appeals from final orders of removal. *See, e.g.*, *Perez v. Noem*, No. 3:25-CV-2920-K-BN, 2025 WL 3532430, at *2 (N.D. Tex. Nov. 14, 2025) (citing *Lopez-Arevelo*, 2025 WL 2691828, at *6), *adopted* 2025 WL 3530951 (N.D. Tex. Dec. 9, 2025) (internal citation omitted). Others have declined to require exhaustion in similar circumstances, where the government contends that binding precedent precludes relief or any appeal. *See, e.g.*, *Sandoval v. Acuna*, No. 6:25-CV-1467, at *2 n.1 (W.D. La. Oct. 31, 2025).

Here, too, Respondents urge the Court to deny the petition on grounds that Leon Olivares "must first use the very remedies that . . . the BIA has deemed unavailable to him." *Perez*, 2025 WL 3532430, at *3. For reasons explained in *Perez*, the undersigned similarly finds that Leon Olivares is not required to seek a bond hearing before an immigration and appeal the denial of such request before the Court may consider his claims.

C. Mandatory Detention under the INA

This is one of many similar actions arising out of the BIA's curtailment of immigration judges' ability to make individualized bond determinations for certain

individuals placed in removal proceedings. *See Perez*, 2025 WL 3532430, at *1; *see also Covarrubias v. Vergara*, No. 5:25-CV-112, 2025 WL 2950097, at *2 (S.D. Tex. Oct. 8, 2025); *Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346, at *2 (S.D. Tex. Oct. 7, 2025). One of two INA provisions govern: 8 U.S.C. § 1225 or 8 U.S.C. § 1226.

> Section 1226 provides the general process for arresting and detaining noncitizens who are present in the United States and eligible for removal. 8 U.S.C. § 1226. The Supreme Court has explained that Section 1226(a) "sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of an alien 'pending a decision on whether the alien is to be removed from the United States." *Jennings*, 583 U.S. at 288 (quoting § 1226(a)). "[T]he Attorney General 'may release' an alien detained under § 1226(a) 'on bond or conditional parole.'" *Id.* (citation modified). But "aliens who are covered by § 1225(b)(2) are detained pursuant to a different process" and "'shall be detained for a [removal] proceeding' if an immigration officer 'determines that [they are] not clearly and beyond a doubt entitled to be admitted' into the country." *Id.* (quoting § 1225(b)(2)(A)). Hence, "noncitizens detained under section 1225(b)(2) must remain in custody for the duration of their removal proceedings, while those detained under section 1226(a) are entitled to a bond hearing before an IJ at any time before entry of a final removal order." *See, e.g., Rodriguez v. Bostock*, --- F.Supp.3d ---, 2025 WL 2782499, at *3 (W.D. Wash. Sept. 30, 2025).

Covarrubias, 2025 WL 2950097, at *2.

"The principal issue" in these cases "is whether [the habeas petitioner] has been erroneously categorized as a detainee subject to 8 U.S.C. § 1225(b)(2), which prescribes mandatory detention during removal proceedings, or if he is subject to 8 U.S.C. § 1226(a), which provides for discretionary detention and a bond hearing

regarding whether the noncitizen is a flight risk or poses a danger to the community." *Covarrubias*, 2025 WL 2950097, at *2. The difference in interpretation emanates from the Government's recent reevaluation of its immigration detention authority. On July 8, 2025, ICE issued interim guidance ("Interim Guidance" or "Guidance") announcing that the Department of Homeland Security ("DHS") "has revisited its legal position on detention and release authorities."[2] The Guidance concludes that INA Section 235 (8 U.S.C. § 1225) rather than Section 236 (8 U.S.C. § 1226), is the applicable immigration detention authority for all applicants for admission." *See* Interim Guidance; *see also Perez*, 2025 WL 3532430, at *3. As a result, "it is [now] the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole. These aliens are also ineligible for a custody redetermination hearing ('bond hearing') before an immigration judge." Interim Guidance. Then, on September 5, 2025, the BIA issued a decision affirming this new DHS interpretation. *See In re: Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In *Hurtado*, the BIA affirmed "the Immigration Judge's determination that he did not have authority over [a] bond request because aliens who are present in the United States without

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[2] A copy of the Interim Guidance is available at https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (last visited Jan. 6, 2026); https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents (last visited Jan. 6, 2026).

admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings." *Id.* at 220.

Respondents base their arguments on this new interpretation of agency policy. (*See generally* Resp.) "[C]ourts across the country have held that this new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect." *Lopez-Arevelo*, 2025 WL 2691828, at *7 (collecting cases). "Many of these decisions have been made in the context of requests for preliminary injunctive relief." *Id.* at *7 n.6. Respondents seemingly acknowledge that the decision in *In re Hurtado* represents a departure from the way that the agency has interpreted the law since 1996. (*See* Resp. at 13-14 n.4.)

D. The INA

For the reasons explained above, and succinctly explained in *Covarrubias*, 2025 WL 2950097, at *2, which, in turn, relied on almost every other federal district court in this circuit and elsewhere that has addressed this issue, the undersigned first concludes that detaining Leon Olivares without a bond hearing under Section 1225(b) violates the INA:

> [Leon Olivares] contends that he is being detained under Section 1226(a) and should have a bond hearing, but Respondents argue that he is subject to mandatory detention under Section 1225(b)(2), and therefore, not entitled to a bond hearing.
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> * * *

> [W]hether [Leon Olivares] falls under Section 1226(a) or 1225(b)(2) is a matter of statutory interpretation. Statutory interpretation is the province of the courts, not agencies. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024).
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> The [undersigned] finds that Section 1226, not Section 1225, applies to [Leon Olivares's] detention. As almost every district court ... has concluded, "the statutory text, the statute's history, Congressional intent, and § 1226(a)'s application for the past three decades" support application of Section 1226. *Buenrostro-Mendez*, 2025 WL 2886346, at *3 (collecting cases).

Covarrubias at *3 (cleaned up); *see also Buenrostro-Mendez*, 2025 WL 2886346, at *3 ("The court need not repeat the 'well-reasoned analyses' contained in these opinions and instead simply notes its agreement."). Respondents have pointed to recent decisions supporting their alternative conclusion (*see* Resp. at 21-22 (citing cases)), but they are as equally nonbinding as the decisions they seek to undermine. On balance, and in the absence of controlling authority, the undersigned follows the reasoning in *Covarrubias*, 2025 WL 2950097, at *3-4.

E. Procedural Due Process

1. Availability of Procedural Due Process Protections

The undersigned also finds that detaining Leon Olivares without a bond hearing violates his Fifth Amendment rights. In the context of detention under Sections 1225(b) and 1226(a), the United States Court of Appeals for the Fifth Circuit has "expressly left open the constitutional due process question" for lower

courts to consider. *Lopez-Arevelo*, 2025 WL 2691828, at *8 (citing *Jennings*, 583 U.S. at 312).

Because the undersigned concludes that Leon Olivares is erroneously categorized as detained under Section 1225(b)(2), the undersigned also recommends that the Court reject Respondents' related argument that, because Section 1225 "says nothing 'whatsoever about bond hearings' ... [n]o procedural due process claim is stated." (Resp. at 28 (quoting *Jennings*, 583 U.S. at 297).) And, to the extent that Respondents may rely on *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 S. Ct. 1959, 207 L. Ed. 2d 427 (2020), to deny this due process claim, the undersigned agrees with courts in this circuit that have distinguished *Thuraissigiam* in this context. *See Lopez-Arevelo*, 2025 WL 2691828 at *7-10; *see also, e.g.*, *Vieira v. De Anda-Ybarra*, ___ F. Supp. 3d ____, 2025 WL 2937880, at *4-5 (W.D. Tex. Oct. 16, 2025); *Martinez v. Noem*, No. EP-25-CV-430-KC, 2025 WL 2965859, at *4 (W.D. Tex. Oct. 21, 2025); *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *7–10 (W.D. Tex. Oct. 2, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923, at *7–8 (W.D. Tex. Oct. 21, 2025).

In *Thuraissigiam*, "[t]he [Supreme] Court did not address whether noncitizens mandatorily detained under § 1225(b) have a constitutional due process right to challenge the fact or length of their detention, as [Leon Olivares] does here." *Lopez-Arevelo*, 2025 WL 2691828, at *8. Unlike in *Thuraissigiam*, where the petitioner

challenged his deportability and the denial of his asylum admission, here Leon Olivares challenges his detention without a bond hearing. *See Thuraissigiam*, 591 U.S. at 114-15. Further, the petitioner in *Thuraissigiam* was stopped and detained "within 25 yards of the border" and was not released or permitted to reside in the United States. *Thuraissigiam*, 591 U.S. at 114. But Leon Olivares has resided in the United States since 2014 (*see* Am. Pet. ¶ 15; *see also* App. 008). *Lopez-Arevelo*, 2025 WL 2691828, at *9 (distinguishing *Thuraissigiam* because petitioner had resided in the United States for three years). Therefore, Leon Olivares is entitled to procedural protections under the Fifth Amendment's Due Process Clause, and the undersigned will consider his claim that his detention violates those rights.

2. *Mathews* Balancing Test

"To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976)." *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025) (cleaned up). The three factors to consider are (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424

U.S. at 335 (cleaned up). "The essence of due process is the requirement that 'a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it." *Id.* at 348 (quoting *Joint Anti-Fascist Refugee Comm. v. McGrath*, 341 U.S. 123, 171-72 (1976) (Frankfurter, J., concurring)).

a. Private Interest

"Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty [the Due Process] Clause protects." *Vieira*, 2025 WL 2937880, at *6 (quoting *Zadvydas*, 533 U.S. at 690). District courts have held that noncitizens who have been released from custody on their recognizance have a "liberty interest in remaining out of custody on bond." *Lopez-Arevelo*, 2025 WL 2691828, at *11 (collecting cases). Leon Olivares was released on his recognizance in June 2021. (Pet. ¶¶ 45-46.) Upon his release, he acquired a "cognizable interest in his freedom from detention that deserves great weight and gravity." *Vieira*, 2025 WL 2937880, at *6. Therefore, the first factor weighs in his favor.

b. Risk of Erroneous Deprivation and Value of Additional Safeguards

As to the second factor, Leon Olivares is in custody. Without a bond hearing, it is very likely that he will remain in custody. The risk of an arbitrary deprivation is greater given the BIA's new interpretation of Section 1225(b)(2). *See Vieira*, 2025 WL 2937880, at *7; *Lopez-Arevelo*, 2025 WL 2691828, at *11. "[A]gency

decisionmakers regularly 'conduct[] individualized custody determinations … consider[ing] flight risk and dangerousness.'" *Gonzales Martinez*, 2025 WL 2965859, at *4 (cleaned up). So, a bond hearing would "give [Leon Olivares] the opportunity to be heard and receive a meaningful assessment of whether he is dangerous or likely to abscond." *Lopez-Arevelo*, 2025 WL 2691828, at *11. Because a bond hearing would reduce the risk of an erroneous deprivation of Leon Olivares's liberty, the second factor therefore weighs in favor of Leon Olivares.

c. Government's Interest

Respondents argue that the government has the constitutional power to detain Leon Olivares without bond "for the limited purpose of removal proceedings and determining his removability." (Resp. at 26.) And they assert here that the government has a legitimate interest in maintaining its new procedures. (*Id.* at 30.) But that interest is not inviolable, particularly in light of the previous considerations. And, to the extent the government's legitimate interests concern ensuring Leon Olivares's appearance during removal proceedings, that would be served through an individualized bond hearing. *Martinez*, 2025 WL 2965859, at *4. Thus, the undersigned weighs the third factor as neutral.

Because the *Mathews* factors on balance support Leon Olivares, the undersigned concludes that denying him a bond hearing under Section 1225(b)(2) deprives him of his procedural due process rights under the Fifth Amendment.

Because the denial of a bond hearing violates Leon Olivares's procedural due process rights, the undersigned declines to address any substantive due process claim that Leon Olivares may make. *See Santiago*, 2025 WL 2792588, at *6 n.2 ("[B]ecause the Court grants [the petition] on procedural due process grounds, the Court need not reach [the petitioner's] substantive due process . . . claims.").

III. INJUNCTIVE RELIEF

As "[a] TRO is simply a highly accelerated and temporary form of preliminary injunctive relief," "[t]o obtain a temporary restraining order, an applicant must show entitlement to a preliminary injunction." *Horner v. Am. Airlines, Inc.*, No. 3:17-CV-0665-D, 2017 WL 978100, at *1 (N.D. Tex. Mar. 13, 2017) (cleaned up).

But granting a preliminary injunction "is an extraordinary remedy which requires the movant to unequivocally show the need for its issuance." *Valley v. Rapides Par. Sch. Bd.*, 118 F.3d 1047, 1050 (5th Cir. 1997) (citing *Allied Mktg. Grp., Inc. v. CDL Mktg., Inc.*, 878 F.2d 806, 809 (5th Cir. 1989))

To obtain preliminary injunctive relief, a movant must unequivocally "show (1) a substantial likelihood that he will prevail on the merits, (2) a substantial threat that he will suffer irreparable injury if the injunction is not granted, (3) his threatened injury outweighs the threatened harm to the party whom he seeks to enjoin, and (4) granting the preliminary injunction will not disserve the public interest." *Bluefield Water Ass'n, Inc. v. City of Starkville, Miss.*, 577 F.3d 250, 252–53 (5th Cir. 2009)

(cleaned up); *accord Canal Auth. of State of Fla. v. Callaway*, 489 F.2d 567, 572 (5th Cir. 1974).

And the Fifth Circuit "has repeatedly cautioned that [such relief] should not be granted unless the party seeking it has clearly carried the burden of persuasion on all four requirements." *Voting for Am., Inc. v. Steen*, 732 F.3d 382, 386 (5th Cir. 2013) (cleaned up). "The purpose of a preliminary injunction is always to prevent irreparable injury so as to preserve the court's ability to render a meaningful decision on the merits." *Canal Auth.*, 489 F.2d at 576 (cleaned up). So the decision on a motion seeking a TRO or preliminary injunction does "not amount to a ruling on the merits" of a plaintiff's claims, *Jonibach Mgmt. Tr. v. Wartburg Enters., Inc.*, 750 F.3d 486, 491 (5th Cir. 2014), considering that "the findings of fact and conclusions of law made by a court granting a preliminary injunction are not binding at trial on the merits" and "may be challenged at a later stage of the proceedings," *id.* (cleaned up).

In short, a TRO or preliminary injunction is not a device "to give a plaintiff the ultimate relief he seeks" through his claims. *Peters v. Davis*, No. 6:17CV595, 2018 WL 11463602, at *2 (E.D. Tex. Mar. 28, 2018); *accord Lindell v. United States*, 82 F.4th 614, 618 (8th Cir. 2023) ("This Court has repeatedly recognized that the purpose of injunctive relief is to preserve the status quo; it is not to give the movant the ultimate relief he seeks."); *Kane v. De Blasio*, 19 F.4th 152, 163 (2d Cir. 2021) ("The purpose of a preliminary injunction is not to award the movant

the ultimate relief sought in the suit but is only to preserve the status quo by preventing during the pendency of the suit the occurrence of that irreparable sort of harm which the movant fears will occur." (cleaned up)). Therefore, a motion or application for a TRO or preliminary injunction is properly denied when it is no more than a motion to accelerate prevailing on the merits.

Here, the arguments supporting Leon Olivares's TRO motion focus on the harms of mandatory detention without bond, and therefore, he appears to seek the same or similar relief in the habeas petition and the TRO motion. Insofar as Leon Olivares seeks the same ruling on the merits as the habeas petition, the undersigned finds that the TRO motion improperly seeks ultimate relief. *See Buenrostro-Mendez*, 2025 WL 2886346, at *4 (denying TRO as moot because it sought the same relief as the petitioner's habeas petition—to release the petitioner from custody or order a bond hearing). Accordingly, the TRO motion (Dkt. Nos. 12) should be denied.

IV. REMEDY

Most courts confronting this issue have determined that the appropriate relief is a bond hearing. *See Lopez-Arevelo*, 2025 WL 2691828, at *12-13 (collecting cases); *Vieira*, 2025 WL 2937880, at *7 (collecting cases). The Court therefore should order that Leon Olivares be given a bond hearing before an IJ and decline to award any other requested relief at this time.

V. RECOMMENDATION

For the foregoing reasons, the undersigned **RECOMMENDS** that the Court grant in part Leon Olivares's application for a writ of habeas corpus under 28 U.S.C. § 2241 (Dkt. No. 1) to require Respondents to provide him with a bond hearing before an immigration judge and deny the TRO motion (Dkt. No. 12).

SO RECOMMENDED on January 8, 2026.

BRIAN McKAY
UNITED STATES MAGISTRATE JUDGE

NOTICE OF RIGHT TO OBJECT

A copy of these findings, conclusions, and recommendation will be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). To be specific, an objection must identify the finding or recommendation to which objection is made, state the basis for the objection, and indicate the place in the magistrate judge's report and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996), *modified by statute on other grounds*, 28 U.S.C. § 636(b)(1) (extending the time to file objections to 14 days).